



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Senate Bill 375	Senate Substitute Amendment 1
<i>Memo published: January 29, 2004</i> <i>Contact: Laura Rose, Deputy Director (266-9791)</i>	

2003 Senate Bill 375 relates to comprehensive planning by local governmental units and fees imposed by political subdivisions. This memorandum describes the bill and Senate Substitute Amendment 1.

Comprehensive Planning-Related Provisions

Under *current law*, if a local governmental unit adopts a comprehensive plan, the plan must contain certain planning elements, including housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; and land use. Beginning January 1, 2010, any program or action of a local governmental unit that affects land use must be consistent with that local governmental unit's comprehensive plan. Also under current law, before a comprehensive plan may take effect, a local governmental unit, must adopt written procedures designed to foster public participation in the preparation of the plan.

Under *Senate Bill 375*, the written procedures must describe the methods that will be used to distribute proposed, alternative, or amended elements of a comprehensive plan to: (a) owners of property in which the allowable use or intensity of use of the property is changed by the comprehensive plan; and (b) persons who have a leasehold interest in property allowing extraction of nonmetallic mineral resources if the allowable use or intensity of use of the property is changed by the comprehensive plan.

In addition, at least 30 days before the currently required public hearing on a proposed comprehensive plan or amendment to a plan is held, the bill requires the local governmental unit to provide written notice to all such property owners and leaseholders. Those who must be notified expressly include: (a) an operator who has applied for or obtained a nonmetallic mining reclamation permit; (b) a person who has registered a marketable nonmetallic mineral deposit; and (c) any other person who the local governmental unit knows has a property interest in nonmetallic mineral resources in the jurisdiction.

Senate Substitute Amendment 1 retains the bill's requirements, except that it provides that any other person who the local governmental unit knows has a property interest in nonmetallic mineral resources in the jurisdiction must be provided at least 30 days advance written notice of the public hearing *only* if the person *requests in writing* that the local governmental unit provide the property owner or leaseholder notice of the hearing.

Further, notwithstanding the notice of public hearing requirements, a comprehensive plan or amendment to the plan may take effect even if the required notice is not provided, unless the local government's failure to provide the notice was intentional.

Fees Imposed by Municipal and County Government

Under *common law*, a fee imposed by a municipality (city, village, town) or county generally must bear a reasonable relationship to the cost of the service or regulation supported by the fee.

Senate Bill 375 expressly provides that any fee imposed by a county or municipality must bear a reasonable relationship to the service for which the fee is imposed. In addition, with regard to any fee imposed or existing fee increased on or after the effective date of the proposal, a municipality or county must issue written findings that demonstrate that the fee bears a reasonable relationship to the service for which the fee is imposed.

Senate Substitute Amendment 1 retains the provision that any fee imposed must bear a reasonable relationship to the service for which it is imposed, but deletes the second requirement relating to written findings.

Legislative History

2003 Senate Bill 375 was introduced on January 7, 2004 and referred to the Select Committee on Job Creation. On January 27, 2004, the committee held a public hearing and took executive action on the bill. The committee recommended passage of the bill, as amended by Senate Substitute Amendment 1, by a vote of Ayes, 4; and Noes, 1.

LR:tlu